

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

MARK ORAVETZ,

Civ. No. 6:24-cv-00395-AA

Plaintiff,

OPINION & ORDER

v.

FEDERAL RESERVE OF
SAN FRANCISCO, C-CLASS
ACCOUNTS

Defendant.

AIKEN, District Judge.

Pro Se Plaintiff Mark Oravetz, seeks leave to proceed *in forma pauperis* (“IFP”) in this action. For the reasons set forth below, Plaintiff’s IFP Petition, ECF No. 2, is DENIED with leave to refile and the Complaint, ECF No.1, is dismissed with leave to amend and without service on Defendants. The Motion for Appointment of Counsel, ECF No. 4, is DENIED.

LEGAL STANDARD

Generally, all parties instituting any civil action in United States District Court must pay a statutory filing fee. 28 U.S.C. § 1914(a). However, the federal IFP statute, 28 U.S.C. § 1915(a)(1), provides indigent litigants an opportunity for meaningful access to federal courts despite their inability to pay the costs and fees associated with that access. To authorize a litigant to proceed IFP, a court must make

two determinations. First, a court must determine whether the litigant is unable to pay the costs of commencing the action. 28 U.S.C. § 1915(a)(1). Second, it must assess whether the action is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune to such relief. 28 U.S.C. § 1915(e)(2)(B).

With regard to the second of these determinations, district courts have the power under 28 U.S.C. § 1915(e)(2)(B) to screen complaints even before service of the complaint on the defendants and must dismiss a complaint if it fails to state a claim. Courts apply the same standard under 28 U.S.C. § 1915(e)(2)(B) as when addressing a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). To survive a motion to dismiss under the federal pleading standards, the complaint must include a short and plain statement of the claim and “contain sufficient factual matter, accepted as true, to ‘state a claim for relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged. The plausibility standard . . . asks for more than a sheer possibility that a defendant has acted unlawfully.” *Id.* The court is not required to accept legal conclusions, unsupported by alleged facts, as true. *Id.*

Pro se pleadings are held to less stringent standards than pleadings by attorneys. *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972). That is, the court should

construe pleadings by *pro se* plaintiffs liberally and afford the plaintiffs the benefit of any doubt. *Karim-Panahi v. Los Angeles Police Dep't*, 839 F.2d 621, 623 (9th Cir. 1988). Additionally, a *pro se* litigant is entitled to notice of the deficiencies in the complaint and the opportunity to amend, unless the complaint's deficiencies cannot be cured by amendment. *Id.*

DISCUSSION

When assessing an IFP petition, the Court first must determine whether the plaintiff has made a sufficient showing of indigency. Here, Plaintiff has written “NO” repeatedly across the pages of the IFP petition, apparently to indicate that he does not have employment or income. However, when asked to describe his assets, Plaintiff wrote “70 BARS gold at 400 oz each square BARS in North Las Vegas Nevada state HAD 30 years paper, trail, people, trail, witnesses.” From this, it appears that Plaintiff may, or may not, have a substantial quantity of gold, which would weigh into the question of indigency. The Court will therefore deny the IFP petition with leave to refile. If Plaintiff opts to refile his IFP petition, he should provide a clearer explanation of his resources so that the Court can assess his claim of indigency. Additionally, for the reasons set forth below, the Complaint will be dismissed with leave to amend but without service on Defendant.

With regard to the substance of the Complaint, the Court is unable to make out what claim or claims Plaintiff intends to assert. Plaintiff states that he brings his claims under “Bill Right 1-12 Amendments OR US Constitution Civil Rights.” In the section of the form where Plaintiff was asked to describe the facts of his claim, he

wrote “Happened on F/V Nordic Mariner I was Relief Capt. Had work on deck show These guys How geter [sic] Done.” Plaintiff goes on to describe injuries, but it is not clear how he was injured, how his civil rights are implicated, or how the Federal Reserve of San Francisco is involved.

This falls below the federal pleading standards and the Complaint must be dismissed for failure to state a claim. As Plaintiff is pro se, dismissal shall be with leave to amend and Plaintiff shall have thirty days from the date of this Order in which to file an amended complaint. In drafting the amended complaint, Plaintiff should bear in mind that the Court does not know anything about his situation other than what he includes in his amended pleading. Plaintiff should briefly and clearly explain who the defendants are, what they have done, and why Plaintiff believes the defendants should be held liable for his injury.

Finally, the Court denies the Motion for Appointment of Counsel. There is no constitutional right to counsel in a civil case. *United States v. 30.64 Acres of Land*, 795 F.2d 796, 801 (9th Cir. 1986). However, pursuant to § 1915, this Court has discretion to request volunteer counsel for indigent parties in exceptional circumstances. *Wood v. Housewright*, 900 F.2d 1332, 1335 (9th Cir. 1990). Here, Plaintiff has failed to state a claim and so the Court declines to request volunteer counsel at this time.

CONCLUSION

For the reasons set forth above, Plaintiff’s IFP petition, ECF No. 2, is DENIED with leave to refile and the Complaint, ECF No. 1, is DISMISSED without service on

Defendants. Dismissal is with leave to amend and Plaintiff shall have thirty (30) days from the date of this Order to file an amended complaint. Plaintiff is advised that failure to file an amended complaint within the allotted time will result in entry of a judgment of dismissal without further notice. Plaintiff's Motion for Appointment of Counsel, ECF No. 4, is DENIED.

It is so ORDERED and DATED this 7th day of March 2024.

/s/Ann Aiken

ANN AIKEN

United States District Judge